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6 of all others similarly situated

7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 RICHARD A. SILBER, an individual and on)
behalf of all others similarly situated,)

11 Plaintiff,)

12 vs.)

13 SHOP-VAC CORPORATION, a Pennsylvania)
14 Corporation, and DOES 1 through 100,)
inclusive,)

15 Defendants.)
16)
17)
18)

CASE NO. 3:08CV00637-JLS-RBB

CLASS ACTION

**JOINT MOTION FOR EXTENSION OF
TIME FOR DEFENDANT TO FILE
ANSWER OR OTHERWISE RESPOND
TO FIRST AMENDED COMPLAINT**

19
20 Plaintiff Richard A. Silber ("Plaintiff") and Defendant Shop-Vac Corporation ("Shop-
21 Vac") hereby move this Court for an Order granting Shop-Vac an extension of time in which to
22 file an answer or otherwise respond to the First Amended Complaint up to and including July 8,
23 2008. In support of this joint motion, the parties present the following:

24 1. On or about February 25, 2008, Plaintiff Richard A. Silber filed a putative class
25 action Complaint ("Complaint") in the Superior Court of San Diego County, California, Case
26 No. 37-2008-00078687-CU-BT-CTL, naming Shop-Vac as a Defendant.

27 2. The summons and Complaint were deemed served on Shop-Vac on March 9,
28

1 2008.

2 3. Shop-Vac timely filed a Notice of Removal pursuant to the Class Action Fairness
3 Act of 2005 ("CAFA"), Pub. L. No. 109-2, 119 Stat. 4 (codified in scattered sections of 28
4 U.S.C.), on April 8, 2008.

5 4. On April 29, 2008, pursuant to this Court's extension, Shop-Vac's filed a Motion
6 to Dismiss pursuant to Rule 12(b)(6) and in the alternative, a Motion to Strike pursuant to Rule
7 12(f), scheduled to be heard on July 18, 2008.

8 5. Plaintiff filed the First Amended Complaint on May 28, 2008, the response to
9 which is due on June 17, 2008.

10 6. The parties request additional time to time to answer or otherwise respond to the
11 First Amended Complaint in order to engage in discussions towards the possible resolution of the
12 matter. To that end, Shop-Vac has agreed to take its pending Rule 12 Motions off calendar.
13 Should discussions fail, Shop Vac will need time to formulate a proper response to Plaintiff's
14 Complaint.

15 7. Shop-Vac respectfully requests three weeks to file its Answer or otherwise
16 respond to the First Amended Complaint, to July 8, 2008.

17 8. Undersigned counsel for Shop-Vac has conferred with undersigned counsel for
18 Plaintiff, who does not oppose this extension. Shop-Vac has not previously sought an extension
19 of time in regards to its deadline to file an Answer to the First Amended Complaint; although, an
20 extension of time was previously sought and granted in regards to Shop-Vac's deadline to
21 respond to the original Complaint.

22 9. The requested extension of time is not being made for the purpose of delay, but
23 rather is made to further the interests of justice.

24 WHEREFORE, Plaintiff and Shop-Vac respectfully pray for an Order granting Shop-Vac
25 an extension of time to answer or otherwise respond to Plaintiff's Complaint up to and including

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27 ///

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July 8, 2008 and for such other and further relief this Court deems just and proper.

DEL MAR LAW GROUP, LLP

ARMSTRONG TEASDALE LLP

By: /s/ John H. Donboli

By: /s/ Kevin J. Senn

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system this 16th day of June, 2008 upon the following:

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